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Attorneys for Defendant *CMM Technology, Inc.*

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

U.S. ORDNANCE, a Nevada corporation,

Plaintiff,

v.

CMM TECHNOLOGY, INC., a California
corporation and DOES 1-20, inclusive,

Defendants.

Case No.: 3:19-cv-0409-MMD-CBC

ORDER TO:

- (1) **VACATE THE SETTLEMENT
CONFERENCE; AND**
- (2) **CONTINUE ALL OF THE
DEADLINES IN THE CURRENT
SCHEDULING ORDER FOR 60
DAYS**

WHEREAS, following the first settlement conference conducted by the Honorable Carla

Baldwin, the Court issued an amended Scheduling Order on May 20, 2020 (attached hereto as Exhibit A) which effectively continued all of the deadlines in the above encaptioned action for approximately 90 days so that the parties could each take one deposition of the key witnesses

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1 (i.e. the persons that represented each party in the sale and functioning of the particular machine
2 at issue in this case) in order to shed light on certain factual issues that would need to be fleshed
3 out/clarified at which point the parties and their counsel believe that a resolution of the entire
4 case could be negotiated in a follow-up Settlement Conference;
5

6 WHEREAS, Magistrate Judge Baldwin, being in agreement with the parties, scheduled a
7 follow-up settlement conference for August, 10, 2020, with a pre-settlement conference briefs to
8 be submitted to her by August 3, 2020;

9 WHEREAS, sometime thereafter, Lynne Alexandria, principal for Defendant CMM
10 Technology, Inc. ("CMM"), had a medical issue that arose such that she will be undergoing a
11 surgical procedure on August 3, 2020, and has been advised by her doctor to avoid stress and
12 travel for at least 5-6 weeks following that procedure;
13

14 WHEREAS, due to Ms. Alexandria's medial situation, and the ongoing Covid-19
15 pandemic's impact on travel safety (particularly by airplane), counsel for Defendant CMM, Mark
16 J. Butler, and counsel for Plaintiff US Ordnance ("US ORD"), Richard Campbell, met and
17 conferred together, coordinated with each of their respective witnesses, and agreed to seek a
18 continuance of the Settlement Conference until sometime in September, and to hold remote
19 depositions of the two key witnesses on August 24, and 26.
20

21 WHEREAS, on July 29, Mr. Butler received a call from his co-counsel in an active case
22 pending in Orange County Superior Court, Case No. 30-2019-01093947-CU-FR-CJC, notifying
23 Mr. Butler that his co-counsel that morning had received a positive test result for Covid-
24 19/coronavirus.

25 WHEREAS, just days before his co-counsel had gotten the positive Covid-19 diagnosis,
26 Mr. Butler had been working closely, and in-person, with that co-counsel on various briefs for
27 motions set to be heard in that case during the month of August.
28

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1 WHEREAS, while not currently experiencing any symptoms of a Covid-19 infection, Mr.
2 Butler is voluntarily self-quarantining and taking steps to not expose anyone in case he
3 contracted Covid-19 from his co-counsel, including not being able to meet with anyone at CMM
4 to prepare to take the deposition that he was scheduled to take remotely on August 24, 2020;

5
6 WHEREAS, because of the very large spike in new Covid-19 cases in Orange County,
7 California where Mr. Butler lives, while he has tried to get tested, the drive through testing
8 regimen on Orange County is so overwhelmed that the on-line reservation systems has not even
9 taken requests for testing since Mr. Butler got word from his co-counsel of his positive test
10 results on July 29. Attached hereto as Exhibit B is a screen shot of the message on the Orange
11 County Public Health's Covid-19 test reservation site from July 30, which is identical to the
12 message on that site when Mr. Butler previously tried to make a test reservation on July 29.

13
14 WHEREAS, on July 29, after first notifying his wife and certain medical professionals,
15 Mr. Butler immediately notified Mr. Campbell about his co-counsel's positive test result and the
16 fact that Mr. Butler would now be self-quarantining, and thus is unable to meet with his client
17 representatives/witnesses in order to prepare for and take the deposition on August 24, or to
18 defend the deposition on August 26 as previously agreed;

19
20 WHEREAS, counsel for both parties still agree that after the two key witnesses are
21 deposed, which (barring a Covid-19 medical emergency) will be re-scheduled for dates in
22 September, that the parties may still be able to resolve this case with the follow-up settlement
23 conference after those deposition are taken.

24
25 THEREFORE, IT IS HEREBY STIPULATED by and between the parties, subject to the
26 Court's approval, as follows:

27 1. The Settlement Conference in this matter be continued from August 10, 2020 at
28 9:00 a.m. to September 28, 2020 at 9:00 a.m.;

2. The deadline for the parties to submit their respective supplemental settlement conference statements shall be September 21, 2020;

3. All other dates set forth in the Scheduling Order issued May 20, 2020 are continued for 60 days, such that:

- a. the deadline for the completion of discovery (see LR 26-1(b)(1)) is continued until December 18, 2020;
- b. the deadline for amending the pleadings and adding parties (see LR 26-1(b)(2)) is continued until September 21, 2020;
- c. the dates for complete disclosure of expert testimony (see Fed.R.Civ. P. 26-1(a)(2)(A)-(C) and LR 26-1(b)(3)) are continued such that the Expert Disclosures Exchanged is October 21, 2020 and rebuttal experts November 23, 2020.
- d. the deadline for the filing of dispositive motions (see LR 26-1(b)(4)) is continued until January 19, 2021;
- e. the date by which the parties will file the joint pretrial order (see LR 26-1(b)(5)) is continued to February 22, 2021; and
- f. Continued settlement conference is scheduled for August 10, 2020 at 9:00

DATED this 30th day of July, 2020.

DATED this 30th day of July, 2020

/s/ Richard G. Campbell, Jr.

/s/ Mark J. Butler

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ORDER

GOOD CAUSE APPEARING, the parties' Stipulation and Proposed Order to Continue Settlement Conference and discovery deadlines is GRANTED in part and DENIED in part.

The Court orders that the May 20, 2020 Scheduling Order (ECF 33) shall be extended by sixty (60) days. The amended deadlines are as follows:

1. the deadline for the completion of discovery (see LR 26-1(b)(1)) is continued until **December 18, 2020**;
2. the deadline for amending the pleadings and adding parties (see LR 26-1(b)(2)) is continued until **September 21, 2020**;
3. the dates for complete disclosure of expert testimony (see Fed.R.Civ. P. 26-1(a)(2)(A)-(C) and LR 26-1(b)(3)) are continued such that the Expert Disclosures Exchanged is **October 21, 2020** and rebuttal experts **November 23, 2020**.
4. the deadline for the filing of dispositive motions (see LR 26-1(b)(4)) is continued until **January 19, 2021**;
5. the date by which the parties will file the joint pretrial order (see LR 26-1(b)(5)) is continued to **February 22, 2021**;
6. The continued settlement conference currently set for August 10, 2020 at 9:00 a.m. is VACATED. The deputy court clerk is directed to work with the parties to reschedule the settlement conference.

IT IS SO ORDERED.

DATED: July 31, 2020

By



The Honorable Carla Baldwin
United States Magistrate Judge